

MONTANA PUBLIC DEFENDER COMMISSION
STRATEGIC PLANNING COMMITTEE MEETING

Goodkind Building
139 North Last Chance Gulch, Helena, MT 59601

April 9, 2015

MINUTES

(Approved at the September 16, 2015 Meeting)

Committee Members Present:

Ken Olson (Co-Chair), Great Falls; Bonnie Olson (Co-Chair), Marion; Margaret Novak, Chester; Roy Brown, Billings. Commission Chair Fritz Gillespie, Helena, was also in attendance.

Committee Members Absent:

Brian Gallik, Bozeman

Note: New Strategic Planning Committee members were appointed at the March 19, 2015 Commission meeting. Commissioner Petaja resigned from the Committee because he will not seek reappointment when his current term expires.

Agency Team Members Present

Bill Hooks, Chief Public Defender; Wade Zolynski, Chief Appellate Defender; Kristina Neal, Conflict Coordinator; Harry Freebourn, Administrative Director; Wendy Johnson, Contract Manager; Peter Ohman, Training Coordinator; Carleen Green, Accountant

Interested Parties

Pat Edgar, Professional Development Center; Rachel Weiss, Legislative Services; Greg Martin, Office of Labor Relations; Niki Zupanic, Public Policy Director, American Civil Liberties Union of Montana

1. Call to Order

Committee Co-Chair Ken Olson called the meeting of the Strategic Planning Committee to order at 1:00 p.m.

2. Approval of Minutes of July 18, 2014 Meeting (*Action Item)

Commissioner Bonnie Olson moved to approve the minutes of the July 18, 2014 meeting as drafted. Commissioner Ken Olson seconded and the motion carried.

3. HB 627 – Task Force to Study OPD

HB 627 will be heard next week in Senate Judiciary. Chairman Gillespie asked the Committee to think about the task force objectives as the agency strategic plan is

reviewed and revised. Commissioner Olson said that the bill strikes him as an effort to revisit the same issues addressed in the American University and ACLU reports, and Chairman Gillespie agreed. Responding to inquiries from the task force will give OPD an opportunity to collect and condense existing information as an educational tool.

The Committee discussed the need to maintain the integrity of the agency's current goal number 2—to ensure that the public defender system is operated without politicization. There was general agreement that an independent commission is the best way to remain free of political and judicial pressure and to provide an independent layer between the legislature and the people hired to manage the agency.

4. Background and Discussion on the Need for a Long-Term Plan

Administrative Director Harry Freebourn discussed the format and process for developing a business plan. Not all of the sections in his memo necessarily apply to a state agency. However, OPD was criticized several times during the legislative session for not having a long-range business plan.

Some of the usual parts of a business plan (mission statement, goals and objectives) already exist and can be reviewed by the Committee. Goals and objectives are an important part of a plan; they need to be specific, measurable, and include milestones.

Mr. Freebourn introduced Dr. Pat Edgar, director of the State Human Resources Division Professional Development Center, as a resource for the Committee. Dr. Edgar said that his doctorate is in public administration, and that is his main area of interest. The notion of a business plan for a public entity is an odd creature, because “business” implies profit, which public entities don’t pursue. Instead, the goal for public agencies is improving performance. Goals and objectives should not just be statements on what the organization will continue to do, since that is the legal obligation, but what will be done differently to improve performance. The goals and objectives provide a way to attain the vision.

Commissioner Brown said that as a businessman he knows how to put a business plan together, but usually you have control over revenues and expenses. A state agency doesn’t have control over revenues or expenses; you can’t even control who comes through the door for services. So how can this work? Dr. Edgar replied that the idea that you should run government like a business is nonsense because there is no bottom line—services are provided for the public good, and no one would run a business to provide these services. However, you can streamline processes to work with the available resources. There was general agreement to Chairman Gillespie’s suggestion to drop the words “business” and “strategic” and simply develop a plan. Dr. Edgar said that the plan should evolve over time and be considered a living document subject to revision.

Commissioner Bonnie Olson requested that legislative services provide data on how long it took for the judicial branch budget to stabilize and not require a supplemental funding following its assumption as a state agency. She will also ask the court administrator for historical information.

5. Review Previous Work

- a. Current Draft Strategic Plan
- b. Response to American University and ACLU Montana Reports
- c. White v. Martz Stipulation

The existing documents identify what the agency does, from eligibility determination, to data collection, to assigning attorneys, and the contract and conflict aspects of the agency. They are a beginning point for the Committee to work from. The stipulation sets out standards and limitations on how the agency can be changed; those decisions were not made in a vacuum. Mr. Freebourn said that for legislators and the public, attorney ethics and professional responsibilities are the most difficult part of OPD's constitutional and statutory obligations to understand.

Mr. Freebourn reviewed the task force duties in section 2 of HB 627 and encouraged the Committee to be ready to provide that information to the task force. The Committee discussed the need to ensure the integrity of the agency's data; to improve communications; to present information in simple, non-legal terms; and to correct misconceptions about public defenders and the work that they do.

Commissioner Novak noted that the Response to the AU/ACLU studies might as well not exist as far as the task force is concerned. She would like to develop a one-page step-by-step chronology beginning with the creation of the agency in response to the ACLU lawsuit.

6. Tasks for Committee Members

One of the first decisions to make is determining the audience for the plan—is it the public, legislators, lawyers?

Staff were assigned to identify the constitutional and statutory duties of the office, and the ethical and professional responsibilities of OPD attorneys (sections 2.a.-2.c. of HB 627).

Dr. Edgar suggested a brainstorming session early in the process. He would be happy to facilitate. Suggested areas to explore are stabilizing caseloads, recognizing the need for social workers, alternatives for handling DN cases, better communications with the public and the legislature, and creating alliances with other stakeholders.

Commissioner Bonnie Olson asked about agency statistics and the integrity of the data in the case management system. Chief Hooks will provide an update on what is being collected in the case management system.

Chief Appellate Defender Wade Zolynski noted that Programs 2 and 3 won't have the same goals and objectives as Program 1, and they will have to be identified separately before melding into an overarching plan. Contract Manager Wendy Johnson suggested that involving all levels of staff, including managers, attorneys, eligibility specialists and support staff will create more buy-in later on.

Commissioner Bonnie Olson moved that staff begin to gather the information in section 2 of HB 627 for review, and begin the SWOT (strengths, weaknesses, opportunities, threats) analysis. Commissioner Novak seconded. Ms. Johnson was appointed to be the liaison with Dr. Edgar. The goal is to create an organizational improvement plan by evaluating where the agency is doing well and where it needs to improve. The motion carried. The goal is to have this initial information by mid-May.

Rachel Weiss, Legislative Services Division, said that although the task force will not meet until after July 1 when their appropriation becomes effective, her office will begin preparations before then. The task force will give guidance to staff on what they want to know. OPD should be ready to respond to questions, but the broader focus of the Strategic Planning Committee won't necessarily be of interest to the task force.

There was discussion about having the National Center for State Courts come in to do an independent study. This is the group that did a workload and resource assessment of Montana's courts, and Commissioner Bonnie Olson said that their credibility with the legislature was tremendous.

Chairman Gillespie noted that as a working committee, staff and Committee members are free to communicate and share information. However, decisions cannot be made without establishing a quorum at an open meeting. Information will be distributed as it becomes available.

7. Public Comment

No public comment was offered.

8. Set Next Meeting Date

The next meeting will be scheduled for mid-May.

9. Adjourn

The meeting adjourned at 2:45 p.m.